

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TREMONT REALTY CAPITAL, INC.,

Plaintiff,

v.

PINNACLE GROUP, LLC, ADAMS
CANYON RANCH, LLC, JOHN LANG,
and MICHAEL GRADY,

Defendants.

and

Civil Action No. 04-11853-RGS

PINNACLE GROUP, LLC, ADAMS
CANYON RANCH, LLC, JOHN LANG,
and MICHAEL GRADY,

Counterclaim Plaintiffs,

v.

TREMONT REALTY CAPITAL, INC.,

Counterclaim Defendant.

and

PINNACLE GROUP, LLC, ADAMS
CANYON RANCH, LLC, JOHN LANG,
and MICHAEL GRADY,

Third-Party Plaintiffs,

v.

FORTIS ADVISORS, LLC,
TREMONT-FORTIS REALTY CAPITAL,
LLC, RUSSELL POSORSKE, RICHARD
C. GALLITTO AND DANIEL O. MEE

Third-Party Defendants.

AFFIDAVIT OF MICHAEL S. DAY

I, Michael S. Day, state:

1. I am associated with the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., and I am one of the counsel of record for plaintiff Tremont Realty Capital, Inc. ("Tremont"), Fortis Advisors, LLC ("Fortis"), Tremont-Fortis Realty Capital, LLC, Russell Posorske ("Posorske"), Richard C. Gallitto and Daniel O. Mee (collectively the "Third Party Defendants") in this action. I submit this affidavit in support of Counterclaim Defendant's And Third Party Defendants' Opposition To Motion For Leave To Admit, *Pro Hac Vice*, John R. Politan To The Bar Of The United States District Court For The District Of Massachusetts.

2. Exhibit A to the affidavit is a true copy of the Affidavit of Edward Kobel dated July 5, 2005. It contains an electronically signed signature page. An original signature page will be filed with the Court shortly.

The statements made in this affidavit are made under the penalties of perjury this 5th day of July 2005.

_____/s/ Michael S. Day_____
Michael S. Day
B.B.O. #656247

EXHIBIT A